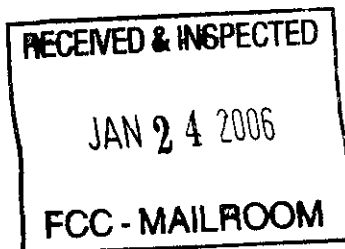


**Before the
Federal Communications Commission
Washington, D.C. 20554**



In the matter of)

Implementation of Section 621(a)(1) of the Cable)
Communications Policy Act of 1984 as amended)
By the Cable Television Consumer Protection and)
Competition Act of 1992)

MB Docket No. 05-311

COMMENTS SUBMITTED BY THE CITY OF INDIANAPOLIS

Introduction

The City of Indianapolis, pursuant to the solicitation of the FCC's Media Bureau, hereby submits comments regarding the FCC's Notice of Proposed Rulemaking (NPRM) with respect to the implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992.

In its stated reasoning behind this NPRM, the FCC notes that "potential competitors seeking to enter the multi-channel video programming distributor (MVPD) marketplace have alleged that in many areas the current operation of the local franchising process serves as a barrier to entry." The notice goes on to say that the FCC seeks comment as to "whether the franchising process unreasonably impedes the achievement of the interrelated federal goals of enhanced cable competition and accelerated broadband deployment."

The City of Indianapolis, respectfully disagrees with the allegations of these potential competitors.

Unlike the incumbent cable operators who sought franchise agreements *prior* to deploying facilities to provide multi-channel video, SBC (AT&T of Indiana) indicates that their video platform, Project Light Speed, is being deployed across the country without any franchise agreements being sought. In Indianapolis, for example, the Indianapolis Business Journal reported in its October 10, 2005, issue that "by the end of 2006, SBC plans to roll out in Indiana something called IPTV, short for Internet protocol television. IPTV is possible thanks to a huge investment in fiber optic cable, which SBC has been installing in neighborhoods and, in some cases, right up to the doorsteps of homes."(1)

(1) Indianapolis Business Journal, 10/10/05, page 67.

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If SBC follows through it would be in violation of the City of Indianapolis Cable Code 851, (<http://www.indygov.org/eGov/Cable/ordinance.htm>) (2) that requires a provider of multi-channel video in the public right of way to seek and obtain a cable franchise agreement *first*. Additionally, such deployment would also be in violation of Title VI of the Federal Code that requires a franchise agreement if a municipality should require one. And while SBC believes that an IP platform holds them harmless from obtaining a franchise agreement to provide multi-channel video, their confidence in that belief seems to belie their aggressive legislative attempts to change the franchising rules on the federal and state levels. Verizon on the other hand, actively pursues franchise agreements for providing multi-channel video service.

In the City of Walnut Creek, California, Multi-Channel News noted in its October 31, 2005, edition that "City officials there have refused permits needed by the telephone company to place infrastructure such as 80 five-foot-tall cable vaults in the public rights-of-way. Community officials maintain the main purpose of the plant upgrade is to deliver video services, and insist SBC needs a cable franchise before the City will approve the permits." (3) As of this writing, SBC is suing Walnut Creek.

It can be assumed that SBC's "no franchises needed" stance is behind the company's construction of active upgrades wherever their telephony footprint is, with the goal of providing multi-channel video utilizing the public right-of-way. In this rulemaking to determine whether cities and towns are barriers to entry and deployment of facilities, the FCC should ask itself what evidence there is of any barriers. Why are cities and towns accused of being barriers to entry and deployment when telecommunication companies such as SBC are not only deploying facilities without franchise agreements but are doing so in violation of federal and local laws?

Background

By virtue of the Telecommunications Act of 1996, which encouraged cable and telephone companies to get into each other's businesses, the telephone industry only recently has sensed an urgency to enter the video market. It's no coincidence that telephone's entry into video parallels the cable industry's eroding of the regional Bell operating companies' (RBOCs) core business of voice services, even though they have had the opportunity to do so for a decade. Indeed, cities and towns have asked the RBOCs to provide competitive service for years. And, in the mid 1990s, Ameritech ventured in the video business, getting franchise agreements with around 100 communities in the Midwest.

(2) See Indianapolis Cable Code Section 851-104.

(3) Multi-Channel News, *'SBC Hits a Pothole in California'*, 10/31/05.

Indianapolis had high hopes that Ameritech's video subsidy, Ameritech New Media (ANM) would come to Indianapolis to provide competitive service. After all, it was providing service in Columbus, Ohio, suburban Chicago, suburban Detroit and other places nearby. What could Indianapolis do to encourage and pave the way for ANM here and provide competitive service? Talks with ANM were encouraging and Indianapolis appeared to be on the radar screen for ANM's expansion into video as Ameritech already provided telephony in this market. Then in 1998, when SBC acquired Ameritech, Ameritech officials privately told the city that the acquisition would crush any competitive video entry in the Indianapolis market and more than likely end their video subsidiary Ameritech New Media.

In response to that, the City of Indianapolis submitted comments (http://www.indygov.org/eGov/Cable/Reports/FCC/1998_10_01_sbc_ameritech.htm) (4) to the FCC asking that the FCC exercise caution with respect to the Ameritech acquisition given SBC's history of gutting video properties it acquired such as in its deal with Pacific Telesis. In its October 1, 1998, filing of DA 98-1492/CC Docket # 98-141, the City apprised the FCC in relating its concerns that SBC would remove the competitive video element from Ameritech that:

SBC's CEO, Edward Whiteacre, testified before the U.S. Senate Antitrust Subcommittee that he "may pull back on Ameritech's aggressive cable strategy" (Merger Sparks Skepticism, Antitrust Concerns, Cable World 5-25-98 at 12). "SBC showed no inclination toward an overbuild when it shuttered PacTel's 8,000 subscriber overbuild operations in San Jose, Calif. Indeed, city officials in San Jose were caught completely off guard about the closure: Two days before the shutdown, PacTel executives were outlining the Telco's overbuild strategy going out two years" (Several Cities Hoping Ameritech Will Stay In Video Business Cable World 5-25-98 at 77). "SBC also abandoned its own domestic cable operations, agreeing last fall to sell systems in the Washington, D.C., area to a group including Prime, and shuttering its cable system in Richardson, Texas. Furthering the perception of a pullback from wired cable was, in March, SBC's announcement of resale agreements with direct-broadcast satellite providers DirecTV Inc. and U.S. Satellite Broadcasting" (Ops Await SBC/Ameritech Fallout, Multi-channel News 5-18-98 at 1 & 61).

As it turned out, the City of Indianapolis's fears with respect to the merger were realized as SBC rid itself of all the video properties of the Ameritech New Media cable subsidiary, and no more overtures were made to the city of plans to compete in video.

Evidently, there has been a change of heart regarding the rollout of multi-channel video by SBC. However, the company's historical attitude towards providing multi-channel video, even with the success of the ANM properties, is well-documented. Cities, such as Indianapolis were not only encouraging competitive entry by the RBOCs but were petitioning the FCC to allow them *to succeed and survive!*

(4) Indianapolis's FCC filing DA 98-1492 CC Docket # 98-141 SBC/Ameritech Transfer of 10/1/98.

Franchise Agreements are Successful Models

Cable franchise agreements are a successful model of public/private partnership. The model has seen communities prosper with access to government activities, educational opportunities, public dialogue, institutional networks for public safety training, homeland security and many other benefits. Community by community, cable operators and local governments come to an understanding of the community's needs related to cable service and the spectrum space that communities are entitled to, in the form of access channels to communicate with their constituents. Cable complaints flow to the municipalities resourceful enough to handle them, local relationships are built between cities and operators to mediate constituent cable related matters and problems are solved.

Comcast, Cox, Time Warner and other cable companies can all point to the success of their business via franchise agreements that benefited their communities while enabling them to use the public rights-of-way (PROW) for their private gain. The same can be said for the RBOCs where local agreements facilitate telephone service.

The FCC realized the need for compensating cities for private use of public property as rent for that usage when it established its federal rules governing such. Removing local government from franchising would remove the concept of compensating the public for using public property for private gain.

The Importance of a Franchise to Indianapolis

Indianapolis leaders have often touted the importance of public-private partnerships in the successful metamorphosis of the city over the years. The importance of that concept is reflected with pharmaceutical giant Eli Lilly and Company and its benevolence to the community through its foundation. The same public-private partnership philosophy brought the Colts and the NFL to the city and paved the way for the NCAA to be headquartered here. And the same formula benefits our citizens and our incumbent cable operators, Comcast and Bright House Networks. We have tried to entice other operators here with the same competitive approach.

Some form of cable TV/multi-channel video services has been in existence in Indianapolis since 1967. There have been many benefits over the years and to not have these benefits ingrained in the city's fabric over the years would certainly have changed the way in which our city has grown.

One of the most important benefits local franchising provides our city is government access television, which presently enjoys two channels on each of our operator systems. WCTY-Channel 16 and Government TV2 have fostered community access to local government meetings at many levels. It is a local version of CSPAN, supported nationally by the cable industry. Local government access reflects directly those issues that affect local constituents, a concept that could well be lost if local government is removed from the franchising process.

While producing thousands of hours of original, local programming over the years, our government TV facilities also have helped raise millions of dollars and solicit hundreds of inquiries for volunteer service for a local orphanage through videos aimed at philanthropic organizations.(5)

Over the years, the government access facilities have been used repeatedly by the Indianapolis Police Department for forensic research to assist the apprehension of criminals wanted for robbery and murder. City TV staff members have been awarded many citations for its huge contributions to public safety. (6)

The facilities have helped reach the community with award-winning historical and cultural programming that has been utilized countywide and statewide in academic curriculums at the high school and university levels. (7). Some of these programs have made their way to national broadcast and cablecast on networks such as TBS, NBC, CBS and HBO. (8)

Government access TV produces programs that allow our city departments to reach citizens to communicate many important messages, such as construction updates and alternative traffic routes. Internal and external programs are produced to train Election Day officials and constituents about the proper use of voting machines and changes to the voting methods. Public service announcements air on government access and also on the local network affiliates. Among the benefits have been increased animal adoptions, promoted parks and recreation, on property tax filing advice, mortgage exemption explanations, and criminals being apprehended through our Crime Stoppers programs. (9)

The WCTY/TV16 facilities and staff have been responsible for videos that have promoted the city and been utilized by our Visitor's Center and the FBI for recruitment of new agents. Programs produced by the city have been widely utilized by our non-for-profit community such as the United Way, the Indianapolis Chamber of Commerce, the Indianapolis Plan for Equal Employment, the Catholic Archdiocese, the Department of the Army and the Indianapolis Hebrew Congregation. (10)

(5) Letters of 11/30/94 & 10/12/98 from Children's Guardian Home Director Paul Browne describing the funding and volunteer services offered as a result of the government access produced videos. This also included that the video was shown at the National Child Care Conference in Orlando that year as a model for how an agency can generate funding by these means.

(6) Copies of awards and letters of commendation from the City's Department of Public Safety for contributions made to it by government access TV and its staff.

(7) Many letters from educational institutions that reflect the value of government access' contributions.

(8) Letters from CBS and NBC outlining their intended use of City produced programming.

(9) Letters from City departments reflective of value of access facilities and work done to benefit them.

(10) Documents from Indianapolis' not-for-profit organizations on the value that City TV provides.

On countless occasions, our facilities and staff have produced programs to aid and assist our local government internally. These include training tapes for public safety and the courts, jury pool orientation videos, parks promotions, city event promotions, every imaginable municipal meeting and mayoral speeches. To contract these services to an outside vendor over the years would have cost the city hundreds of thousands of dollars.

The public consistently and frequently provides feedback about how our work benefits the quality of their lives. (11) Our government TV facilities have made the city a better place to live and work. This can be further evidenced by the numerous news articles describing the programming produced by the city for the enjoyment, education and benefit of our community for which a dollar value cannot be placed. (12) All of this is made possible by our local franchise agreements. Jeopardizing our ability to franchise would make those benefits vulnerable.

Over the years, Indianapolis' government access channels have been the local outlet for monthly programs produced by the Armed Forces. During times of war, we consistently hear the appreciation of family members of military personnel who enjoy the news updates we carry of Army, Navy and Marine news. Family members tell us they feel closer and connected to their loved ones serving abroad as a result of that service.

Through our franchise agreements with Bright House and Comcast the police and fire departments utilize an institutional network (INET) for remote roll call, encrypted training and Homeland Security measures. These INETs are closed circuit-lines that run parallel to the subscriber system that allow for valuable, non-public communications use by public safety officials. (13)

Additionally, local franchising has helped cable subscribers in our city by creating a mechanism for complaints to be quickly and fairly mediated. Our local franchising authority (LFA) has mediated thousands of cable complaints for its constituents. (14) The agency prides itself on delivering the complaints received on the same day to the cable operators, who, for the most part, contact the customer within 24 hours. Our franchise agreements call for a written response from the operator as to how it has addressed the constituent's concern and if it has been resolved to the customer's satisfaction. The fact that we have a rapport with the local incumbents helps in our complaint mediation as we engage in follow-up on un-resolved issues.

(11) Letters from the community as to how they see the City TV programs adding to the community's quality of life.

(12) News articles on programs to be produced and aired by the City's government access TV operations.

(13) Letter from Indianapolis Fire department Chief on the importance of the INET.

(14) Excel spread sheet on the yearly complaints that the Indianapolis local franchising authority takes in by category and month on the cable incumbents.

Clearly this kind of partnership only comes via a locally held franchise. One cannot expect that a state franchise or a federally held franchise with dispute resolution being maintained at the federal or state level is going to equal the kind of consumer protection that our constituents have become accustomed to through the City of Indianapolis' local franchising authority. It is not local and it is remote, at best.

To underscore the need to keep consumer protection at the local level, in 2000, Ameritech/SBC had poor phone service and the Midwest state regulatory commissions were reporting complaints rising. The Indianapolis Star, in an editorial of May 21, 2000, noted that "Ameritech Indiana had the worst response time, 27.2 hours, of any major phone company in the nation last year." (15) In an article October 11, 2000, , the Star quoted the FCC's Dorothy T. Atterwood in a letter to SBC: "I am concerned that consumers in SBC's region are experiencing increasing installation delays, longer repair times and greater difficulties contacting the phone company about their problems". (16) While SBC/AT&T of Indiana has greatly improved upon the poor performance that was outlined and documented by the Indiana Utility Regulatory Commission and the FCC, the complaints underscore the need for local oversight.

If the incumbent cable operators, with decades of experience in video, continue to have more than 1,000 complaints with our LFA a year, how can a company with no experience in video and a history of poor customer service in telephony not have an experienced LFA with the expertise to handle these complaints swiftly, available to its constituents?

Virtually every year, the City of Indianapolis issues non-compliance to the incumbent operators with respect to the enforcement of the FCC Customer Service Standards. (17) Routinely the incumbent operators fail to answer their phone lines within 30 seconds 90 percent of the time or do not meet the baseline of a 3 percent or less busy rate 90 percent of the time. The issuing of the non-compliance results in a cure by the operator of the less-than-adequate accessibility to their offices by their customers and our constituents. The operators remedy the matter by hiring more customer service reps, which involves additional training, adding additional phone lines to their facilities and revamping their telephone system by adding state-of-the-art equipment. In one dire case we got the operator to stop dumping incoming calls which had caused customers to complain that they couldn't reach their operator for days on end.

(15) **Indianapolis Star** editorial of 10/11/2000.

(16) **Indianapolis Star**, page 1, "*FCC gives Ameritech parent a scolding*", 10/11/2000.

(17) Samples of non-compliance correspondence between incumbent operators in Indianapolis.

Recommendations & Solutions to the Telephone Company's Issues

The City of Indianapolis has been on the record in its enthusiasm and encouragement to competition in the multi-channel video market. To that end, and to address the issues that the telephone industry has put forward, the City of Indianapolis recommends the following:

Verizon contends that the franchising process "simply takes too long." (18) With respect to the time it takes to franchise a new competitive entry into the multi-channel video market place, the City of Indianapolis recommends that the process be limited to six to nine months versus what has been a three-year process. The telephone companies must understand that there are parliamentary processes that must be respected for document preparation and voting purposes. Separate from that, where the telephone companies are concerned, some of the fact finding by a municipality may be reduced significantly in the areas of financial and technical because cities should assume that given the size and resources of the telephone companies, these considerations are met already.

If the process is to be reduced to a six- to nine-month process, the telephone companies have to accept t existing franchise agreements are the starting point to the acceptance of a franchise by a new entrant. Within that six- to nine-month period, the city and the new entry can modify the incumbents' franchises allowing for other considerations, such as where duplication exists. Such an example would be duplicative INETs.

This premise would apply only to new entrants of similar size and resources. As an example, Indianapolis is in the process of issuing a competitive franchise agreement to a neighborhood cable operation that has 43 subscribers. In that instance, the city is taking steps to allow for that entity to compete based upon its size and resources. Accordingly, we are reducing our franchise filing fee to a cost-based system instead of what had been an arbitrary figure of \$50,000. It should cost less for the City to franchise a smaller company versus a large one.

The telephone companies are concerned about the sheer numbers of franchises that are needed to be negotiated. The NPRM notes that "Verizon, for example, has stated that it would have to negotiate with more than 10,000 municipalities in order to offer service through its current service area". (19)

(18) Comments of Verizon, FCC's NPRM-MB Docket # 05-311, page 5.

(19) *Id.*

We would propose the following solution: those cities that want to remain a local franchising authority would continue to do so. They would continue to negotiate franchises as described herein within six to nine months and mediate cable complaints, enforce their respective franchises and enforce the FCC or locally adopted customer service standards.

However, most communities don't have the resources to engage in franchising on their own and would be better off opting out and having a state or local government carry out those duties. NATOA, (National Association of Telecommunications Officers & Advisors) could provide a boilerplate franchise agreement to address benefits to these opt-out communities including some access channel provisions and funding for it as well as public service drops (cable/data). These agreements then could be implemented en masse at another level (state or federal) to help alleviate the issue. The FCC user fee that is collected on cable bills would go to the central franchising authority to fund the enforcement of standards and complaint mediation. According to Action Audits of Raleigh, North Carolina, based on 2005 multi-channel sub numbers, the annual 70 cents a year assessed accounted for nearly \$47 million dollars.

Telcos 'Support'

The FCC should be advised that responses to this Notice for Proposed Rulemaking (MB Docket No. 05-311) may suggest the support of a 'consumer group' called *Consumer's for Cable Choice*, which is based in Indianapolis. It has been well documented in the mainstream media that this group and some of its endorsers are financially backed by Verizon and SBC. (20) It is not a consumer group at all. To the extent that any person or entity would consider *Consumer's for Cable Choice* to represent independent support of the telephone industry agenda, they should consider that it is merely a subsidiary of the telephone companies' strategy to influence legislation on the state and federal levels.

(20) **Yahoo Finance**, 11/7/2005-Records Indicate Bells Engaged in 'Astroturf' Lobbying/Creation of Faux Consumer Group Designed to Influence Pending Legislation. **Multi-Channel News**, 11/14/05 page 18-Telcos Feed 'Grassroots' Group'. **Telecomweb**, 10/20/05, Cable Industry: Telcos Apparently Got What They Paid For. **Indianapolis Business Journal**, 11/21/05, page 1, Cable Firms call foe a phony/Group touting itself as consumer group funded by biz giants. **San Francisco Chronicle**, 11/2/05-Cable 'Coalitions' Sketchy, <http://sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2005/11/02/BUGGMFHHG1.DTL&type=business>

Summary

The FCC's NPRM and the various accusations by the telephone industry offer no specific evidence municipalities being barriers to competitive entry in the multi-channel video market. If anything, a few anomalies are propped up to grab attention.

To the contrary, SBC is building out its infrastructure to provide multi-channel video without the required franchise agreements while aggressively attempting to change the rules by which to compete. Most of these rule changes are proposed at the expense of cities that own and maintain the property the company wishes to utilize to make a profit.

Franchising is not an issue of affordability given the size and resources of these companies. Business decisions are being made to build the infrastructure to compete by the telephone industry because there is money to be made in providing competitive multi-channel video.

Consider USA Today's report of August 17, 2005 quoting SBC CEO Randall Stephenson on the company's venture into IPTV: "If I bet wrong, I didn't break the future of this business. For a company this size, \$4 billion is very little money. If I bet wrong, it's not much for us to burn". (21)

Instead of eliminating franchising, the City of Indianapolis proposes shortening the franchise process time to address the concerns reflected by Verizon. Additionally, the City recommends addressing the concerns of industry about the number of franchise agreements by encouraging smaller communities that don't have the means to engage in the franchise process and offer consumer protection to opt out and for another entity to implement. These are very workable solutions of compromise that allow for industry and municipalities to work together going forward.

Thanking you in advance for your kind consideration and attention.

Respectfully submitted,

City of Indianapolis

By 

Rick Maultra-Director/ Cable Communications

(21) USA Today, Money Section of 8/17/05.

SBC

Continued from page 1

I want to be maniacally focused on what consumers want," said Williams, 35.

In his first few weeks on the job, Williams has donned a headset in SBC's Indianapolis customer service center, taking copious notes on what consumers want.

One thing he's learned so far is that some consumers who want to try SBC's digital subscriber line, or DSL, Internet service don't want to subscribe for a whole year to get the promotional \$15-a-month price. Look for changes in terms as early as next month.

Some customers who want to sign up for multiple services tell customer service reps they want everything on one bill—no problem there, because SBC already bills that way. But it shows that "so many customers are looking for simplicity and integration," he said.

Williams wears an impeccably crisp suit and has the relaxed poise of a TV talk show host. It doesn't seem he'll have a problem picking the brains of Hoosiers in a series of focus group sessions he plans for the months ahead.

"There's nothing better than the spontaneous listening to customers," he said.

Inventing a new widget is not Williams' goal. SBC already has standard fare in the business these days—including broadband, long-distance, wireless (through a 60-percent stake in the nation's largest wireless carrier, Cingular), and a partnership with Dish Network for satellite TV.

"The components of the portfolio are relatively full and meet the needs of consumers," he said. "My intent is to find out

Where are customers going?

"The cable companies represent the biggest competition on the horizon because of their data [Internet] services," said Michael Arden, an analyst at ABI Research of Gyster Bay, N.Y.

Arden also notes that cable companies have been getting aggressive in offering phone service, through what's known as voice-over-Internet protocol, or VOIP.

But SBC and other Bells also are losing customers to wireless.

Rollins estimates that 2.8 percent of homes passed by SBC move each year to either cable or wireless for their primary phone service. The analyst said wireless revenue at Cingular remains the principal source of growth, plus revenue from DSL.

SBC has not given up on the phone line, however. By the end of 2005, SBC plans to

offer a national service that allows customers to make calls from anywhere. SBC also plans to offer a service that allows customers to make calls from anywhere. SBC also plans to offer a service that allows customers to make calls from anywhere.

SBC also plans to offer a service that allows customers to make calls from anywhere. SBC also plans to offer a service that allows customers to make calls from anywhere.

The service will include a digital video recorder and will allow for switching between camera angles of baseball games and multiple picture-in-picture displays. IPTV also can interface to a wireless phone, which can be used to set up recording.

The amount of data that can be transmitted is substantial—about 20 megabits per second vs. up to 3 megabits per second for

current DSL.

SBC lobbyists have been toting a DVD player with a demonstration disc on IPTV into offices of legislators. The company is also working to gain access to the legislature for telecommunications and utility regulatory commission oversight in return for its new investment.

A bill that would have phased out price controls on business and residential wire line service died in a conference committee during the last session.

Beyond packaging, Williams hopes to keep and grow market share by improving customer satisfaction—ironically, perhaps—by harkening back to those days when life was much simpler.

"SBC has tremendous legacy to the Indiana customer base, through Indiana Bell," he said.

Proven style can also have substance.

3 levels of living space with 2-story foyer.

1,830 to 2,227 sq. ft. (\$190's to \$300's)

Centex craftsmanship with two-year Fit-and-Finish Warranty.

(G.O. 125, 1996, § 1)

Cross references: Definitions generally, ch. 102.

Sec. 851-103. Previously awarded franchises.

This chapter shall apply to all franchise contracts granted on or after the effective date of this chapter.

(G.O. 125, 1996, § 1)

Sec. 851-104. Franchise required.

No person or entity shall operate a cable system within the city for which a franchise is required under Title VI of the Act without having first obtained a franchise granted subject to this chapter.

(G.O. 125, 1996, § 1)

Sec. 851-105. Franchises not exclusive.

The granting of a cable franchise shall not grant the operator any rights to exclude any other franchised operator from providing services within the geographic areas included in the cable franchise.

(G.O. 125, 1996, § 1)

Secs. 851-106--851-200. Reserved.

ARTICLE II. PROCEDURES FOR APPLICATION, GRANT, RENEWAL, MODIFICATION OR TRANSFER OF CABLE FRANCHISES

DIVISION 1. AUTHORITY

Sec. 851-211. Authority to approve cable franchises.

Subject to the provisions of this article, the city-county council is hereby authorized to approve one (1) or more nonexclusive franchising contracts conveying the right to construct, operate and maintain, within the public ways in the city, poles, cables and any other equipment necessary to the operation of a cable system within a designated area or areas for the period of time specified in the franchise.

(G.O. 125, 1996, § 1)

Secs. 851-212--851-220. Reserved.

DIVISION 2. PETITIONS FOR GRANT OF CABLE FRANCHISE, OTHER THAN AN ACT RENEWAL FRANCHISE

Sec. 851-221. Petition for franchise.

Any person or entity interested in obtaining a cable franchise, except a cable operator, may file a petition expressing such interest with the franchise administrator. The petition must contain or be accompanied by:

- (1) A description of the geographic area proposed to be served with sufficient particularity as to enable a reasonable determination of the boundaries of such area and the proposed location of the cable system's facilities;



SBC Hits a Pothole in California

McN
10/31/05

BY LINDA HAUGSTED

At least in the short term, SBC Communications Inc.'s Project Lightspeed infrastructure improvements have been stalled in the city of Walnut Creek, Calif.

City officials there have refused permits needed by the telephone company to place infrastructure — such as 80 five-foot-tall cable vaults — in the public rights-of-way. Community officials maintain the main purpose of the plant upgrade is to deliver video services, and insist SBC needs a cable franchise before the city will approve the permits.

THIRD PLAYER IN

Comcast Corp., in the midst of an upgrade, and Astound Broadband, a bundled services provider that has just been acquired by Wave Broadband, already serve the city.

SBC has consistently maintained that its planned Internet-delivered video service does not meet the le-

gal definition of a cable system, so the company appealed the city's decision on the permits.

Senior assistant city attorney Paul Valle-Riestra disagreed with SBC's definition of its service.

"SBC is looking for an unlevel playing field," Valle-Riestra told the city council during an Oct. 18 meeting on SBC's permit appeal.

“Our entire network is being held hostage.”

RICHARD PARR, SBC Communications

City officials and cable executives in New York raised the same issues against cable-related system improvements by Verizon Communications Inc. earlier this year. Local officials failed to convince state utility regulators that the telephone company needed franchises in advance of its ability to deliver video service.

SBC officials at the California meeting said the company is willing to pay its fair share, including a fee of

up to 5% of gross revenue on Internet protocol-based services. Barbara Leslie, area manager, added SBC supports community programming access and governmental emergency alert objectives. But an actual franchise is a “barrier to entry,” SBC representatives said. SBC has shut down the fiber-to-the-home build in the city, noted Richard Parr, assistant

general counsel for SBC California.

“Our entire network is being held hostage,” he said, adding a cable franchise is “simply something we cannot work with.”

City officials offered to drop the term “franchise” and limit the agreement to a two-page document, but Parr also objected to that, stating the abbreviated agreement adopted community franchising terms by reference.

Parr stressed that conditions sought by the city are illegal, adding the telephone company refuses to negotiate “with a gun to our head.”

‘BYPASS’ THREATENED

“We’ll simply bypass Walnut Creek,” Parr said.

Despite SBC’s protests, the council unanimously rejected the permit appeal, but urged the company to continue negotiations to resume Project Lightspeed.

SBC spokesman Dave Pacholczyk said his company believes the city is wrong on its franchising efforts, but added the company would take 30 days to determine its next step.

Valle-Riestra said he still hopes SBC will sit down and talk, but noted a community bypass, or a lawsuit, are two possibilities for the telco.

Walnut Creek sent a new contract proposal to SBC following the city council meeting but SBC only acknowledged it received it, Valle-Riestra said. ■

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CC Docket# 98-141 - SBC/Ameritech Transfer

Before the Federal Communications Commission,
Washington, D.C.

DA 98-1492

CC Docket # 98-141

SBC/Ameritech Transfer

October 1, 1998

Thank you for this opportunity to comment on the proposed transfer of control of Ameritech to SBC. The comments that we wish to impart pertain to the effect that this transfer may have on Ameritech's New Media division which is the umbrella for their cable television franchises.

The Cable Communications Agency of the City of Indianapolis is concerned about the anti-competitive aspects of this proposed transfer of control and the adverse affect it could have in allowing Ameritech New Media to continue to add to its cable franchise properties. Indianapolis is still awaiting effective competition from another cable provider. In those locations of the Midwest where Ameritech is providing cable TV service, consumer prices offered by the cable incumbents are significantly below those of communities where Ameritech is not competing. While there is no guarantee that Ameritech will overbuild the Indianapolis area, we are nevertheless concerned that the potential of an Ameritech overbuild could be removed from our community should the transfer of control be approved. Ameritech currently offers local telephone service in the Indianapolis/Marion County area.

While magazine articles may not always represent factual evidence, the trade publication coverage of the proposed transfer and the reporting of SBC's history of its treatment toward video properties causes us concern, should the merger be approved. Consider if you will:

SBC's CEO, Edward Whiteacre, testified before the U.S. Senate Antitrust Subcommittee that he "may pull back on Ameritech's aggressive cable strategy" (*Merger Sparks Skepticism, Antitrust Concerns, Cable World* 5-25-98 at 12). "SBC showed no inclination toward an overbuild when it shuttered PacTel's 8,000 subscriber overbuild operations in San Jose, Calif. Indeed, city officials in San Jose were caught completely off guard about the closure: Two days before the shutdown, PacTel executives were outlining the telcos's overbuild strategy going out two years" (*Several Cities Hoping Ameritech Will Stay In Video Business Cable World* 5-25-98 at 77). "SBC also abandoned its own domestic cable operations, agreeing last fall to sell systems in the Washington, D.C., area to a group

including Prime, and shuttering its cable system in Richardson, Texas. Furthering the perception of a pullback from wired cable was, in March, SBC's announcement of resale agreements with direct-broadcast satellite providers DirecTV Inc. and U.S. Satellite Broadcasting" (Ops Await SBC/Ameritech Fallout, Multichannel News 5-18-98 at 1 & 61).

Telecommunications analyst Philip Sirlin of Schroder & Co. notes "What SBC/Ameritech (the ownership transfer) does, if you view it the way I do, is create a monopoly so big to change the rules so that competition does not occur. Bottom line: That's not good for the cable industry", (SBC Reorders Telco Universe/Ops hope Ameritech will Shelve video expansion, Cable World 5-18-98 page 1).

Warren's Cable Monitor (5-18-98 page 7) noted that "Ameritech cancelled a teleconference touting its success with cable overbuilds, scheduled for May 13, following the announcement of takeover by SBC. Cancellation spurred speculation as to impact of takeover on Ameritech (cable) overbuilds, particularly since SBC has pulled out of most cable ventures. SBC sold its interest in cable systems in Montgomery County, Md., and Arlington, Va., and scaled back Pacific Telesis's wireless cable operations after that takeover. Ameritech is by far the largest cable overbuilder, with more than 70 Midwestern cable franchises."

Senate Commerce Committee chairman John McCain lamented the apparent results of the 1996 Telecommunications Act. Since then, he said, "we have seen the consolidations within the industries; we have seen mergers, rather than competition; and we have seen increased rates, whether they be in cable, or local, or long distance, indicating again that the Telecommunications Act of 1996, whether intended so or not, protected industries and protected everybody but the consumer" (Ops Await SBC/Ameritech Fallout Multichannel News 6-1-98 at 61). Cable World reports that "there are a lot of cities that have now glimpsed the promised land of competition," said University of Wisconsin professor and city consultant Barry Orton. 'But, like Moses, they'll never get a chance to see it' if SBC shuts down Ameritech's cable division". 'My gut tells me that SBC will get out of the cable business'." (Cities Hoping Ameritech Will Stay In Video Cable World 5-25-98 at 8). Mike Roth, City Attorney to Naperville, Ill., notes, "We're happy with Ameritech's cable service here and we would be disappointed if we didn't have competition" (Cities Hoping Ameritech Will Stay In Video Cable World 5-25-98 at 8).

On the flip side of this issue, MultiChannel News reports that the "consensus is that despite its apparent disdain for cable, SBC needs Ameritech New Media (ANM/cable division) in order to produce a bundled package of cable, Internet access and local and long distance telephone services that will be comparable to what AT&T will be offering as a result of the marriage with TCI." (Will AT&T Deal Save Americast? Multichannel News 7-27-98 at 43). According to Mark Plakias, managing director of Strategic Telemedia, "SBC should be looking at Ameritech New Media as a convergence opportunity, and not a cable opportunity. It's got the scale now to justify a major investment in a bundled-value proposition. Getting rid of ANM would seem to take away from that" (Will AT&T Deal Save Americast? Multichannel News 7-27-98 at 43). However, the article goes on to say that "some cable analysts rated the company's (ANM) chances of survival as dim, at best, arguing that the notoriously bottom-line-oriented SBC will not invest capital in pursuing an overbuild strategy".

Ameritech New Media's success in providing competition to incumbent cable operators has been well chronicled. Cable World reports that "cable companies are dropping rates when Ameritech comes to town, the telco said, claiming that Time Warner has dropped basic rates \$2, Jones Intercable \$4 and TCI and Continental \$5 in competitive markets" (Ameritech to FCC: Please Settle Squabbles More Quickly, Cable World 5-19-97 at 46). "In other locations, prices have actually been rolled back. One such community is Troy, Michigan, where TCI shaved \$4.07 per month, or 15%, off the cost of expanded basic last year, while shifting Disney Channel to that tier. The two moves produced a savings of up to \$14.52 per moth for TCI customers" (Ameritech's Detroit -Area Push May

Slow Rate Hikes, Multichannel News 12-1-97 at 46).

Multichannel News reported "that no matter how many customers Ameritech has, its presence in the market has definitely had a financial impact on the incumbent cable companies. Time Warner and Coaxial have not raised rates in over a year" (Collision In Columbus, Multichannel News 6-29-98 at 8A).

In summary, with Ameritech New Media's success in providing competition and consumer choice in the communities in which they have overbuilt, we ask that the FCC carefully weigh the criteria before them as they examine the proposed transfer of control. At issue are the current and potential benefits that the consumer receives via cable TV competition provided by ANM and whether the proposed transfer of control will continue and increase those consumer benefits in SBC and Ameritech's "home" areas.

Respectfully submitted,

Rick Maultra Director
Cable Communications Agency
City of Indianapolis G19 CCB
200 E. Washington Street
Indianapolis, IN 46204

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MARION COUNTY CHILDREN'S GUARDIAN HOME
5751 University Avenue
Indianapolis, Indiana 46219

November 30, 1994

Donna Mikels Shea
Director of Public Relations
United Way of Central Indiana
3901 N. Meridian St.
Indianapolis, Indiana 46208

Dear Ms. Shea:

Re: Casper Awards
Endorsement Letter

This letter is written to endorse the Casper Award nomination of Rick Maultra and the Indianapolis Cable Communication Agency for their production of a video outlining the purpose and function of the Marion County Children's Guardian Home.

The background informational research was excellent and was presented in a fluid and understandable manner.

The video generated thousands of dollars in donations to the Home and hundreds of inquiries regarding volunteer service.

This video was presented at the National Child Care Development Conference in Orlando, Florida earlier this year, as an example of how an agency can generate funds thru the cooperation of a local cable station at very little cost.

We very much appreciate the time, talent and cooperation of Rick Maultra in the production of this video about the Marion County Children's Guardian Home.

Sincerely,

Paul Browne
Executive Director
Marion County Children's
Guardian Home



MARION COUNTY CHILDREN'S GUARDIAN HOME
5751 University Avenue
Indianapolis, Indiana 46219

October 12, 1998

Honorable Stephen Goldsmith, Mayor
City of Indianapolis
City County Building, 25th Floor
200 E. Washington St.
Indianapolis, Indiana 46204

Dear Steve:

Re: Channel 16

During the past 3 years, I have found Channel 16 to be an invaluable resource in communicating the needs of the Guardian Home at holiday time and in bringing about a clearer public understanding of the mission of the Home within the child welfare system.

Both Rick Maultra and Jeff Coates have worked diligently with the staff of the Home in writing and producing numerous PSA's and videos that have been utilized in educating the public on child abuse, as well as, promoting philanthropy to support the needed renovations of our antiquated physical plant.

The video that was recently produced by Channel 16 on the Guardian Home 2000 project was used as the cornerstone of our overall presentations to both the Christel DeHaan Family Foundation and Lilly Endowment. This video was not only successful in helping to generate more than half of the overall 6 million dollar cost of the Guardian Home renovations from private foundations, it also won a national award for creative excellence.

Other departments of City County government, as well as, community organizations would be well served to engage Channel 16 in the development of products that could facilitate a better understanding and promotion of their various services.

Thanks again for your assistance with Lilly Endowment.

Sincerely,

Paul Browne
Executive Director
Children's Guardian Home

PBB:vj
cc: Dr. Beurt SerVaas



INDIANAPOLIS POLICE DEPARTMENT

INTER-DEPARTMENT COMMUNICATION

To: Rick Maultra

Date: 1-8-06

From: Det. Todd C. Lappin

Subject: Channel 16 Assistance

Mr. Maultra,

On October 22, 2005 at 9:30pm, officers of the Indianapolis Police Department responded to the Tabacco Road Gas Station located at 3155 E. English on a report of a person shot. Officers arrived and located the victim, Mr. Palwinder Singh with a gunshot wound to the chest. Wishard Hospital paramedics transported Mr. Singh to the hospital where he was pronounced deceased. I was the homicide detective assigned to the case.

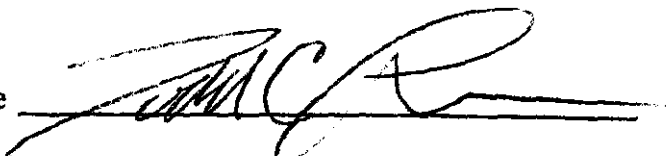
When I arrived, I was informed that the gas station had videotape. I viewed the tape and it was obviously an attempted robbery which took place in which an innocent clerk had been shot and killed. The tape was not of the best quality. Det. Tom Tudor of homicide advised me that he had a case several years ago where Alan Dhayer of Channel 16 had helped him with a tape which resulted in an arrest.

On Sunday October 23, early afternoon, I contacted Mr. Dhayer and informed him of the situation. Mr. Dhayer told me he would meet me in an hour in the Channel 16 studio. I was grateful that someone took such an interest and knew how important it was to assist in finding a murderer who gunned down an innocent clerk of a gas station and who was a threat to public safety.

Mr. Dhayer took my copy of the video and even went out to the gas station and made a better quality directly from the source video using the equipment and enhancing equipment from Channel 16. Mr. Dhayer spent several hours making the tape which was to be released to the news media to air to obtain a possible leads on who the suspect was. The tape aired on all major television networks here in Indianapolis. A 911 call was received shortly afterwards indicating a suspect and where the murder weapon was. As a result, an arrest was made.

This murder was solved quickly and a dangerous person was taken off the streets due Mr. Dhayer and the accessibility of equipment from Channel 16.

Signature



Rank

Patrolman

Ident. No. L-8718